

24CO1:12-cv-01534 McKay v. Branch et al

Robin Alfred Midcalf, presiding

Date filed: 09/05/2012**Date of last filing:** 09/17/2012

History

Doc. No.	Dates	Description
<u>6</u>	<i>Filed & Entered:</i> 09/17/2012	Summons Returned Executed
	<i>Docket Text:</i> SUMMONS Returned Executed by Michael McKay. Will Branch served on 9/13/2012, answer due 10/15/2012. Service type: Substituted (Schwartz, Robert)	
<u>5</u>	<i>Filed & Entered:</i> 09/06/2012	Summons Issued
	<i>Docket Text:</i> SUMMONS Issued as to John Does 1-10. (KI)	
<u>2</u>	<i>Filed:</i> 09/05/2012 <i>Entered:</i> 09/06/2012	Complaint
	<i>Docket Text:</i> COMPLAINT against Will Branch, Branch Antique Heartpine and Cypress, LLC, John Does 1-10, filed by Michael McKay. (Attachments: # (1) Civil Cover Sheet) (KI)	
<u>3</u>	<i>Filed:</i> 09/05/2012 <i>Entered:</i> 09/06/2012	Summons Issued
	<i>Docket Text:</i> SUMMONS Issued as to Will Branch. (KI)	
<u>4</u>	<i>Filed:</i> 09/05/2012 <i>Entered:</i> 09/06/2012	Summons Issued
	<i>Docket Text:</i> SUMMONS Issued as to Branch Antique Heartpine and Cypress, LLC c/o Viron Will Branch, Registered Agent. (KI)	

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Description:	History/Documents	Search Criteria:	24CO1:12-cv-01534
Billable Pages:	1	Cost:	0.20



IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MICHAEL MCKAY

PLAINTIFF

VS.

FILED
SEP 05 2012

CAUSE NO. D2401-12-153A

BY: Kim M. Parker D.C.
GAYLE PARKER
CIRCUIT CLERK

WILL BRANCH;
BRANCH ANTIQUE HEARTPINE AND CYPRESS, LLC; AND
JOHN DOES 1-10

DEFENDANTS

COMPLAINT

COMES NOW the Plaintiff, Michael McKay, by and through his undersigned counsel of record, Schwartz, Orgler & Jordan, PLLC, and files this his Complaint against the Defendants, and would respectfully show unto this Court the following, to-wit:

1.

The Plaintiff, Michael McKay, (hereinafter "McKay" or "Plaintiff") is an adult resident citizen of Harrison County, Mississippi.

2.

The Defendants herein are:

A. Will Branch (hereinafter "Branch"), is an adult resident citizen of the State of Louisiana who may be served with process at 520 St. Augustine Street, Bogalusa, Louisiana 70427 in any manner consistent with Rule 4 of the Mississippi Rules of Civil Procedure.

B. Branch Antique Heartpine and Cypress, LLC, a Louisiana Limited Liability Company (hereinafter "Branch Woods") which may be served with process upon its registered agent, Viron Will Branch, at 1412 Founder's Drive, Bogalusa, LA 70427.

C. John Does 1-10, which may be other entities and/or persons who caused and/or contributed to the damages described herein, and whose identities are currently unknown. Said John Does, when their true identities are known, will be identified by name and joined in this action, if necessary, pursuant to the Mississippi Rules of Civil Procedure.

D. All allegations in this Complaint against "Defendants" are made jointly against all named Defendants, and all John Doe Defendants. Any amended complaint filed herein against John Does will relate back to the date of this Original Complaint, pursuant to the Mississippi Rules of Civil Procedure.

E. Branch is the owner, registered agent and member of Branch Woods, and Branch Woods is the alter ego of Branch. Branch and Branch Woods are hereinafter collectively referred to as "Defendants".

3.

A. This Court has jurisdiction over the subject matter and of the parties, and venue is proper in this Court pursuant to the Mississippi Code of 1972 (as amended) in that the Defendants have breached a contract and/or committed a tort in whole or in part in the First Judicial District of Harrison County, Mississippi.

B. Additionally, the Defendants have conducted business in the First Judicial District of Harrison County, Mississippi, entered into a contract(s) in the First Judicial District of Harrison County, Mississippi, and have committed tortious injuries in whole or in part within the State of Mississippi against resident citizens of the State of Mississippi.

C. Plaintiff further invokes the "long arm" statutes of Mississippi to the extent necessary.

D. Upon service of process this Court will maintain *in personam* jurisdiction over the Defendants.

4.

During 2011, the Defendants, Branch and Branch Woods, entered into a lumber supply agreement with the Plaintiff, McKay, under the terms of which McKay agreed to furnish the Defendants with approximately forty thousand (40,000) board feet in Gulfport, Mississippi to be used by the Defendants for resale to the general public.

5.

In exchange for McKay's lumber supply, Branch and Branch Woods, agreed to pay McKay two dollars (\$2.00) per board foot for each piece of McKay's cypress lumber received and re-sold by Branch and/or Branch Woods.

6.

Branch and Branch Woods acknowledged the terms of the parties' agreement, including the pricing terms set forth hereinabove, and promised to make full payment when due.

7.

Subsequently, McKay furnished the total cypress lumber supply contemplated by the parties' agreement to Branch and Branch Woods. Following a pick up the first load of lumber from McKay, Branch paid McKay the approximate sum of seven thousand five hundred dollars (\$7,500.00), which represented McKay's portion of the sales proceeds from Branch's first sale of McKay's lumber.

8.

Thereafter, Branch and Branch Woods breached their agreement with McKay in that they have failed to pay McKay the additional amounts owed to McKay for the sale of his lumber under

the terms of the agreement. In addition, Branch and Branch Woods have failed to produce or show any alleged unsold lumber to McKay, despite McKay's reasonable and repeated request to inspect the same.

9.

To date, Branch and Branch Woods are indebted to McKay (jointly and severally) in an amount not less than Seventy Two Thousand Five Hundred Dollars (\$72,500.00), which represents the cost of the cypress lumber furnish to Branch and Branch Woods by McKay, less the sum received by McKay.

10.

Branch and Branch Woods have failed to satisfy any portion of said indebtedness to McKay, despite McKay's written and verbal requests for the same.

11.

In addition to the aforesaid amounts and as a result of the Defendants's breach, McKay is entitled to recover his attorney's fees in the sum equal to one-third (1/3) of the amount due, being an amount not less than \$24,164.25. McKay further is entitled to recover pre-judgment and post-judgment interest at a rate of not less than Eight Percent (8%).

COUNT ONE
BREACH OF CONTRACT

12.

The Plaintiff hereby reasserts and realleges each and every one of the foregoing paragraphs as if restated in full herein.

13.

Defendants breached their verbal agreement with the Plaintiff by failing to pay for the cypress lumber furnished to them as and when due and are therefore indebted to the Plaintiff in an amount not less than \$72,500.00, together with attorney's fees one-third (1/3) of said amount being not less than \$24,164.25, for a total sum being due and outstanding to the Plaintiff in an amount not less than \$96,664.25.

COUNT TWO
CONVERSION

14.

The Plaintiff hereby reasserts and realleges each and every one of the foregoing paragraphs as if restated in full herein.

15.

Plaintiff would hereby show that the Defendants have wholly converted to their own use property and/or monies rightfully belonging to the Plaintiff, being the cypress lumber furnished to the Defendants and/or the Plaintiff's share of the sales proceeds thereof.

16.

The Defendants are aware that the Plaintiff is the rightful owner of said property and/or monies, and the Plaintiff has demanded possession of the same.

17.

The Defendants wrongfully retained the aforesaid property and/or monies without returning the full amount to the Plaintiff and without paying the sums expected and required to be paid.

18.

The Plaintiff would show that the Defendants have converted said property and/or monies maliciously, willfully, and wantonly, with the intent to deprive the Plaintiff of his property and that they converted the property to their own use through devious and sundry means, being an act of trover.

19.

The Plaintiff demands damages from the Defendants in the way of actual and punitive damages for the willful, wanton and malicious action of the Defendants, as well as attorney's fees and all other remedies available to the Plaintiff under Mississippi law.

COUNT THREE
UNJUST ENRICHMENT

20.

The Plaintiff hereby reasserts and realleges each and every one of the foregoing paragraphs as if restated in full herein.

21.

The Plaintiff would assert that to allow Defendants to wrongfully retain the Plaintiff's lumber and/or monies of Plaintiff in violation of the terms of the parties' agreement as set forth hereinabove would constitute unjust enrichment of the Defendants at the expense and to the detriment of the Plaintiff.

22.

The Plaintiff reasserts his claims for compensatory damages, together with attorney's fees, costs, pre-judgment and post-judgment interest as set forth hereinabove.

COUNT FOUR
EQUITABLE TRUST

23.

The Plaintiff hereby reasserts and realleges each and every one of the foregoing paragraphs as if restated in full herein.

24.

The Plaintiff would assert that an equitable Trust was created by the acts of the parties and this Court should enforce the same for the benefit of the Plaintiff.

25.

The Plaintiff reasserts his claims for compensatory damages, together with attorney's fees, costs, pre-judgment and post-judgment interest as set forth hereinabove.

COUNT FIVE
FRAUD AND FRAUD IN THE INDUCEMENT

26.

The Plaintiff hereby reasserts and realleges each and every one of the foregoing paragraphs as if restated in full herein

27.

At all times material hereto Plaintiff was relying upon Defendants to abide by the terms of their agreement based upon inducements made to the Plaintiff by the Defendants and to honor the contractual obligations and to deal with the Plaintiffs fairly and honestly.

28.

Defendants made representations to Plaintiff which were false and which the Defendants knew or should have known were false and intended for Plaintiff to rely upon them which has caused the Plaintiff damages as set forth hereinabove.

29.

Plaintiff demands damages from the Defendants in the way of actual and punitive damages for said fraud, as well as attorney fees and all other remedies available to Plaintiff under Mississippi and Federal law.

COUNT SIX
DISGORGEMENT

30.

The Plaintiff hereby realleges and incorporates each and every preceding paragraphs as if fully set forth herein in this cause of action.

31.

The Defendants have made profits by wrongful conducted described herein by the receipt of fees, monies or other financial consideration.

32.

Each of the Defendants should be order to disgorge themselves of all such benefits received as a result of the conduct described herein.

COUNT SEVEN
PIERCING THE CORPORATE VEIL

33.

The Plaintiff hereby realleges and incorporates each and every preceding paragraphs as if fully set forth herein in this cause of action.

34.

One or more of the Defendants engaged in inappropriate behavior which contributed to and caused the damages to the Plaintiff.

35.

The Defendants actions were taken individually by and through one or more entities including Branch Woods which caused damages to the Plaintiff.

36.

Plaintiff is entitled to pierce the corporate veil of Branch Woods and to hold the named Defendant, Branch, who is its officer and member jointly and severally liable and responsible for said actions and the damages caused thereby.

37.

The Defendants have made profits by wrongful conducted described herein by the receipt of monies or other financial consideration.

38.

In addition, Branch Woods has grossly inadequate capital due to the actions of the Defendants.

39.

Furthermore, Branch Woods is an instrumentality of the other named Defendants, the Defendants own all or a majority of the stock in Branch Woods, the Defendants are directors, officers and shareholders of Branch Woods, and the Defendants received salaries, benefits and dividends from Branch Woods.

40.

The formal legal requirements for Branch Woods to act as a separate and independent entity have been ignored by the Defendants.

41.

Plaintiff further alleges that Branch Woods exists to aid the Defendants in perpetrating the fraud described herein, and is therefore a sham designed to subvert the ends of justice.

42.

Furthermore Branch Woods is managed by one or more of the named Defendants.

43.

The Plaintiff reserves the right to provide further evidence to pierce the corporate veil at the time of trial.

44.

Plaintiff demands a judgment against all Defendants jointly and severally under this Count for the damages described herein.

COUNT EIGHT
PUNITIVE DAMAGES

45.

The Plaintiff hereby realleges and incorporates each and every preceding paragraph as if fully set forth herein in this cause of action.

46.

The Plaintiff would assert that the actions of the Defendants so depart from the standard of fair dealings and customs to constitute a separate tort. Based upon the Defendants' intentional concealment of material facts, malice, wilful and wanton conduct and reckless and callous

disregard for the rights of the Plaintiff, Plaintiff is entitled to punitive damages in an amount of not less than One Hundred Thousand Dollars (\$100,000.00) to punish and set an example of the Defendants to deter this conduct by other parties, together with attorneys fees, interest as set forth above and all other damages.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Michael McKay, demands judgment against the Defendants, William Branch and Branch Antique Heartpine and Cypress, LLC, (jointly and severally) in an amount not less than \$96,664.25, together with an award for punitive damages of not less than \$100,000.00, for a total judgment of \$196,664.25, together with pre-judgment and post judgment interest at the rate of Eight Percent (8%) per annum until paid in full. Plaintiff prays for such other relief as this Court may deem appropriate.

RESPECTFULLY SUBMITTED.

MICHAEL MCKAY
BY: SCHWARTZ, ORGLER & JORDAN, PLLC

BY: 
Robert T. Schwartz, for the firm

ROBERT T. SCHWARTZ, ESQ. (MSB# 10482)
JEFFREY W. BERTUCCI, ESQ. (MSB# 102676)
Schwartz, Orgler & Jordan, PLLC
2355 Pass Road
Biloxi, MS 39531
Telephone: (228) 388-7441
Facsimile: (228) 388-7442
robert@soilaw.net
jeff@soilaw.net

COVER SHEET Civil Case Filing Form <i>(To be completed by Attorney/Party Prior to Filing of Pleading)</i>		Court Identification Docket Number <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">24110</div> <small>County # Judicial Court ID District (CH, CI, CO)</small>	Case Year <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">2012</div>	Docket Number <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">1534</div> <small>Local Docket ID</small>						
<small>Mississippi Supreme Court Administrative Office of Courts</small> <small>Form AOC-01 (Revised 1/1/2001)</small>		<div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">090512</div> <small>Month Date Year</small>								
IN THE COUNTY COURT OF HARRISON COUNTY										
Short Style of Case: <u>MICHAEL McKAY vs. WILL BRANCH ET AL.</u>										
Party Filing Initial Pleading: Type/Print Name <u>ROBERT T. SCHWARTZ ESQ.</u>										
Check (✓) if Not an Attorney <input type="checkbox"/> Check (✓) if Pro Hac Vice <input type="checkbox"/> Signature <u>[Signature]</u> MS Bar No. <u>10482</u>										
Compensatory Damages Sought: \$ <u> </u> Punitive Damages Sought: \$ <u> </u>										
Is Child Support contemplated as an issue in this suit? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If "yes" is checked, please submit a completed Child Support Information Sheet with Final Decree/Judgment										
PLAINTIFF - PARTY(IES) INITIALLY BRINGING SUIT SHOULD BE ENTERED FIRST (FIRST NAME IN SHORT STYLE) - ENTER ADDITIONAL PLAINTIFFS ON SEPARATE FORM										
Individual <u>McKAY</u> Last Name <u>MICHAEL</u> First Name <u> </u> Maiden Name, if Applicable <u> </u> Middle Init. <u> </u> Jr./Sr./III/IV <u> </u>										
Address of Plaintiff <u>365 LAKEVIEW BLVD. BILOXI MS 39531</u>										
Check (✓) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: <u> </u>										
Check (✓) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: <u> </u>										
Business <u> </u> Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated										
Check (✓) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: <u> </u>										
DEFENDANT - NAME OF DEFENDANT (FIRST NAME IN SHORT STYLE) - ENTER ADDITIONAL DEFENDANTS ON SEPARATE FORM										
Individual <u>BRANCH</u> Last Name <u>WILL</u> First Name <u> </u> Maiden Name, if Applicable <u> </u> Middle Init. <u> </u> Jr./Sr./III/IV <u> </u>										
Check (✓) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: <u> </u>										
Check (✓) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: <u> </u>										
Business <u>DEFENDANT'S ADDRESS: 520 ST. AUGUSTINE STREET, BOGALUSA, LA 70427</u>										
Check (✓) if Business Defendant is being sued in the name of an entity other than the above, and enter below: <u> </u>										
ATTORNEY FOR THIS DEFENDANT: <u> </u> Bar No. <u> </u> or Name: <u> </u> Pro Hac Vice (✓) <input type="checkbox"/>										
In left hand column, check one (1) box that best describes the nature of this suit. In right hand column check all boxes which indicate secondary claims.										
Business/Commercial <input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Business Dissolution - Corporation <input type="checkbox"/> Business Dissolution - Partnership <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Examination of Debtor <input type="checkbox"/> Execution <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Pension <input type="checkbox"/> Receivership <input type="checkbox"/> Replevin <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other <u> </u>	Domestic Relations <input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce - Fault <input type="checkbox"/> Divorce - Irreconcilable Differences <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> UIFSA (formerly URESA) <input type="checkbox"/> Other <u> </u>	Contract <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Installment Contract <input type="checkbox"/> Insurance <input type="checkbox"/> Product Liability under Contract <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other <u> </u>	Probate <input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Other <u> </u>	Statutes/Rules <input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> ERISA <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Extraordinary Writ <input type="checkbox"/> Federal Statutes <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Municipal Annexation <input type="checkbox"/> Racketeering (RICO) <input type="checkbox"/> Railroad <input type="checkbox"/> Seamen <input type="checkbox"/> Other <u> </u>	Appeals <input type="checkbox"/> Administrative Agency <input type="checkbox"/> County Court <input type="checkbox"/> Hardship Petition (Driver License) <input type="checkbox"/> Justice Court <input type="checkbox"/> MS Employment Security Comm'n <input type="checkbox"/> Municipal Court <input type="checkbox"/> Oil & Gas Board <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other <u> </u>	Children and Minors - Non-Domestic <input type="checkbox"/> Adoption - Noncontested <input type="checkbox"/> Consent to Abortion for Minor <input type="checkbox"/> Removal of Minority <input type="checkbox"/> Other <u> </u>	Torts - Personal Injury <input type="checkbox"/> Bad Faith <input type="checkbox"/> Fraud <input type="checkbox"/> Loss of Consortium <input type="checkbox"/> Malpractice - Legal <input type="checkbox"/> Malpractice - Medical <input type="checkbox"/> Negligence - General <input type="checkbox"/> Negligence - Motor Vehicle <input type="checkbox"/> Products Liability <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Other <u> </u>	Mass Tort <input type="checkbox"/> Asbestos <input type="checkbox"/> Chemical Spill <input type="checkbox"/> Dioxin <input type="checkbox"/> Hand/Arm Vibration <input type="checkbox"/> Hearing Loss <input type="checkbox"/> Radioactive Materials <input type="checkbox"/> Other <u> </u>	Real Property <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Lien Assertion <input type="checkbox"/> Partition <input type="checkbox"/> Receiver Appointment <input type="checkbox"/> Tax Sale Confirmation/Cancellation <input type="checkbox"/> Title, Boundary, and Easement <input type="checkbox"/> Other <u> </u>	Civil Rights <input type="checkbox"/> Elections <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Post Conviction Relief <input type="checkbox"/> Prisoner <input type="checkbox"/> Other <u> </u>

D2401-13-1534

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT, CITY OF GULFPORT

Docket No. _____
 File Yr _____ Chronological No. _____ Clerk's Local ID _____

Docket No. If Filed
 Prior to 1/1/94 _____

**DEFENDANTS IN REFERENCED CAUSE - Page 1 of ____ Defendants Pages
 IN ADDITION TO DEFENDANT SHOWN ON CIVIL CASE FILING FORM COVER SHEET**

Defendant #2:

Individual: _____
Last Name First Name (Maiden Name, if Applicable) Middle Init Jr/Sr/III/IV

____ Check (✓) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:
 Estate of _____

____ Check (✓) if Individual Defendant is acting in capacity as Business Owner/Operator (D/B/A) or State Agency, and enter that name below:
 D/B/A _____

Business BRANCH ANTIQUE HEARTPINE AND CYPRESS, LLC c/o Reg. Agent, Viron Will Branch,
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated 1412 Founders Dr., Bogalusa, LA
70427

____ Check (✓) if Business Defendant is being sued in the name of an entity other than the name above, and enter below:
 D/B/A _____

ATTORNEY FOR THIS DEFENDANT: _____ Bar # or Name: _____ Pro Hac Vice (✓) _____ Not an Attorney(✓) _____

Defendant #3:

Individual: JOHN DOES 1-10
Last Name First Name (Maiden Name, if Applicable) Middle Init Jr/Sr/III/IV

____ Check (✓) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:
 Estate of _____

____ Check (✓) if Individual Defendant is acting in capacity as Business Owner/Operator (D/B/A) or State Agency, and enter that name below:
 D/B/A _____

Business _____
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated

____ Check (✓) if Business Defendant is being sued in the name of an entity other than the name above, and enter below:
 D/B/A _____

ATTORNEY FOR THIS DEFENDANT: _____ Bar # or Name: _____ Pro Hac Vice (✓) _____ Not an Attorney(✓) _____

Defendant #4:

Individual: _____
Last Name First Name (Maiden Name, if Applicable) Middle Init Jr/Sr/III/IV

____ Check (✓) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:
 Estate of _____

____ Check (✓) if Individual Defendant is acting in capacity as Business Owner/Operator (D/B/A) or State Agency, and enter that name below:
 D/B/A _____

Business _____
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated

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 D/B/A _____

ATTORNEY FOR THIS DEFENDANT: _____ Bar # or Name: _____ Pro Hac Vice (✓) _____ Not an Attorney(✓) _____

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MICHAEL McKAY

PLAINTIFF

VS.

CAUSE NO. D2401-12-1534

WILL BRANCH, BRANCH ANTIQUE HEARTPINE
AND CYPRESS, LLC, AND JOHN DOES 1-10

DEFENDANTS

S U M M O N S

THE STATE OF MISSISSIPPI

TO: Will Branch
520 St. Augustine Street
Bogalusa, LA 70427

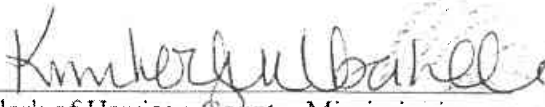
NOTICE TO DEFENDANT

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint to Robert T. Schwartz, the attorney for the Plaintiff, whose address is 2355 Pass Road, Biloxi, Mississippi 39531. Your response must be mailed or delivered within 30 days from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 5th day of September, 2012.


Clerk of Harrison County, Mississippi

(Seal)

GAYLE PARKER, CIRCUIT CLERK
HARRISON COUNTY
PO BOX 998

GULFPORT, MS 39502

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MICHAEL McKAY

PLAINTIFF

VS.

CAUSE NO. D2401-12-1534

WILL BRANCH, BRANCH ANTIQUE HEARTPINE
AND CYPRESS, LLC, AND JOHN DOES 1-10

DEFENDANTS

S U M M O N S

THE STATE OF MISSISSIPPI

TO: Branch Antique Heartpine and Cypress, LLC
c/o Viron Will Branch, Registered Agent
1412 Founder's Drive
Bogalusa, LA 70427

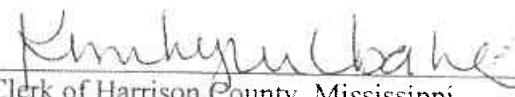
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Clerk of Harrison County, Mississippi

(Seal)

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HARRISON COUNTY
PO BOX 998
GULFPORT, MS 39502

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MICHAEL McKAY

PLAINTIFF

VS.

CAUSE NO. D2401-12-1534

WILL BRANCH, BRANCH ANTIQUE HEARTPINE
AND CYPRESS, LLC, AND JOHN DOES 1-10

DEFENDANTS

S U M M O N S

THE STATE OF MISSISSIPPI

TO: John Does 1-10

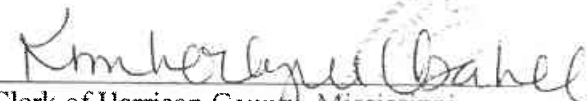
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Issued under my hand and the seal of said Court, this 5th day of September, 2012.


Clerk of Harrison County, Mississippi

(Seal)

GAYLE PARKER, CIRCUIT CLERK
HARRISON COUNTY
PO BOX 998
GULFPORT, MS 39502

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MICHAEL McKAY

PLAINTIFF

VS.

CAUSE NO. D240-12-1534

WILL BRANCH, BRANCH ANTIQUE HEARTPINE
AND CYPRESS, LLC, AND JOHN DOES 1-10

DEFENDANTS

S U M M O N S

THE STATE OF MISSISSIPPI

TO: Will Branch
520 St. Augustine Street
Bogalusa, LA 70427

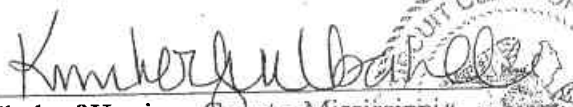
NOTICE TO DEFENDANT

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint to Robert T. Schwartz, the attorney for the Plaintiff, whose address is 2355 Pass Road, Biloxi, Mississippi 39531. Your response must be mailed or delivered within 30 days from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 5th day of September, 2012.


Clerk of Harrison County, Mississippi

(Seal)

GAYLE PARKER, CIRCUIT CLERK
HARRISON COUNTY

PROOF OF SERVICE - SUMMONS

(Process Server)

I, the undersigned process server, served the summons and complaint upon the person or entity named above in the manner set forth below:

 FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (first class mail, postage prepaid), on the date stated in the attached notice, copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender.

____ PERSONAL SERVICE. I personally delivered copies to _____ on
the _____ day of _____, 2012, where I found said person in _____ County
of the State of _____.

X RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within Washington County, LA. I served the summons and complaint on the 13 day of September, 2012, at the usual place of abode of said person by leaving a true copy of the summons and complaint with Kimberly Burdette who is the Wife (here insert wife, husband, son, daughter or other person as the case may be) a member of the family of the person served above the age of sixteen years and willing to receive the summons and complaint, and thereafter on the 13 day of September, 2012, I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left.

 CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person served.

At the time of service I was at least 18 years of age and not a party to this action.

Fee for service: \$

Name: _____

Address _____

Telephone No. _____

State of Louisiana
County of St. Tammany

Ray Buscine LCPs #0008
Process Server

Personally appeared before me the undersigned authority in and for the state and county
aforesaid the within named Roy Busiere who being first by me duly sworn
states on oath that the matters and facts set forth in the foregoing "Proof of Service-Summons" are
true and correct as therein stated.

My Commission Expires:

(Dick & Connors)

NOTARY PUBLIC

Date 9-13-2012



VICKI L. CONNERS
ID #63216
Parish of St. Tammany
Commission for Life